

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ERIC L. NELSON,

Plaintiff,

v.

ALLY FINANCIAL, INC.,
and DOES 1-10

Defendants.

ORDER

22-cv-291-wmc

ERIC L. NELSON,

Plaintiff,

v.

ALLY FINANCIAL, INC.,

Defendant.

ORDER

22-cv-305-wmc

Pro se plaintiff Eric L. Nelson has filed two lawsuits against defendants Ally Financial, Inc., and Does 1-10 claiming that he has been injured in a state-court foreclosure action. Because the complaints in the ‘291 and the ‘305 cases appear to be identical, including all allegations and claims, the court will consolidate these lawsuits, and both will proceed under Case No. 22-cv-305-wmc. *See* Fed. R. Civ. P. 42(a) (permitting consolidation of cases involving a “common question of law or fact”).

Nelson filed the ‘291 case in this court on May 23, 2022. The complaint has not yet been screened, but the court denied Nelson’s motion for a temporary restraining order on May 25, 2022. As for the ‘305 case, Nelson filed a complaint in Dane County

Circuit Court on April 27, 2022, and defendant Ally Financial removed the case to this court. Although defendants Does 1-10 appear in the caption of both the '291 and '305 complaints, Nelson has never identified or served any of these defendants, and the complaints contain no allegations against a defendant other than Ally Financial.

Defendant Ally Financial has now filed a motion to dismiss the '305 complaint under Federal Rules of Civil Procedure 8 and 12(b)(6). Plaintiff has not responded to Ally Financial's motion to dismiss by his deadline, nor has he informed the court that he intends to do so. The court will allow him one final opportunity to respond to defendant's motion. If plaintiff fails to respond by August 17, 2022, the court will assume that he has abandoned these lawsuits and dismiss both with prejudice under Federal Rule of Civil Procedure 41(b) for plaintiff's failure to prosecute.

ORDER

IT IS ORDERED that:

- 1) These two actions are CONSOLIDATED and will proceed under 22-cv-305-wmc.
- 2) Plaintiff has until August 17, 2022, to respond to defendant Ally Financial's motion to dismiss. His failure to do so by that deadline will result in dismissal of these cases with prejudice under Federal Rule of Civil Procedure 41(b).

Entered this 27th day of July, 2022.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge